

PUBLIC VERSION

DOCKET No. 2005-1 CRB DTRA

NPR'S WRITTEN REBUTTAL STATEMENT

**Before the
UNITED STATES COPYRIGHT ROYALTY BOARD
LIBRARY OF CONGRESS
Washington, D.C.**

In The Matter Of: _____

Digital Performance Rights in Sound
Recordings and Ephemeral Recordings _____

Docket No. 2005-1 CRB DTRA

**NPR's LIST OF REDACTED PROTECTED MATERIAL ACCOMPANYING REDACTED
"PUBLIC VERSION" OF REBUTTAL STATEMENT**

Volume 1:

Testimony

Adam Jaffe, Professor of Economics.....A

1. Redactions on page 9, lines 10 through 13, for statement of witness Jaffe concerning agreements between NPR and ASCAP, BMI and SESAC.
2. Redactions on page 10, lines 12 through 13, for statement of witness Jaffe concerning sound recording royalty rates.
3. Redactions on page 10, lines 16 through 18, for statement of witness Jaffe concerning agreement with SESAC.
4. Redactions on page 11, lines 1 through 4, for statement of witness Jaffe concerning data and terms of agreements with ASCAP, BMI, and SESAC.
5. Redactions on page 11, lines 18 through 19, for statement of witness Jaffe concerning data and terms of agreements with BMI.
6. Redactions on page 12, footnote 24, for statement of witness Jaffe concerning data and terms of agreement between NPR/CPB and SoundExchange.
7. Redaction of Figure 1 for chart concerning royalty rates.
8. Redactions of Exhibit NPRJ 2 for restricted testimony in the Testimony of Dr. Murdoch in Docket No. 2000-9 CARP DTRA 1 & 2.
9. Redactions of Exhibit NPRJ 3 for restricted testimony in the Testimony of Dr. Murdoch in Docket No. 2000-9 CARP DTRA 1 & 2.

CERTIFICATE OF SERVICE

I, David J. Taylor, hereby certify that a single copy of the enclosed submission of DiMA's List Of Redacted Protected Material Accompanying Redacted "Public Version" Of Rebuttal Statement has been served this 4th day of October 2006 in accordance with the Protective Order in place in Docket No. 2005-1 CRB DTRA.

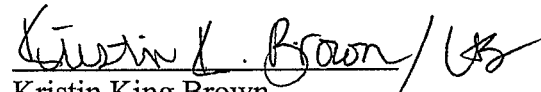
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Respectfully submitted,

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**Before the
UNITED STATES COPYRIGHT ROYALTY BOARD
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Washington, D.C.**

In The Matter Of:

Digital Performance Rights in Sound
Recordings and Ephemeral Recordings

Docket No. 2005-1 CRB DTRA

**REBUTTAL STATEMENT
OF NATIONAL PUBLIC RADIO, NPR MEMBER
STATIONS, AND CPB-QUALIFIED RADIO STATIONS**

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September 29, 2006

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CERTIFICATE OF SERVICE

I hereby certify that a single copy of the foregoing Rebuttal Statement Of Rebuttal Statement of National Public Radio, NPR Member Stations, and CPB-Qualified Radio Stations has been served this 29th day of September 2006 in accordance with the Board's instructions to the following:

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David J. Taylor

Before the
COPYRIGHT ROYALTY BOARD

PUBLIC VERSION

Library of Congress
Washington, D.C.

In the Matter Of:

Digital Performance Right	:	Docket No. 2005-1 CRB DTRA
in Sound Recordings and	:	
Ephemeral Recordings	:	
	:	

Rebuttal Testimony of ADAM B. JAFFE
On Behalf of National Public Radio

I. Introduction and Background

My name is Adam B. Jaffe. I have been asked by National Public Radio, Inc. ("NPR"), its member stations, and all stations qualified by the Corporation for Public Broadcasting ("CPB") to receive federal funding (collectively, "public radio") to provide rebuttal testimony regarding the valuation of the right of public performance of digital sound recordings over the Internet for the period beginning on January 1, 2006, and ending on December 31, 2010. I previously filed direct testimony before the Copyright Royalty Board (the "Board") in this matter. In addition, I filed testimony before a Copyright Arbitration Royalty Panel *In the Matter of the Rates for Noncommercial Educational Broadcasting Compulsory License, Before the Copyright Arbitration Royalty Panel, Docket No. 96-6, CARP NCBRA,*

regarding the congressionally mandated compulsory license for performance rights (section 118). I have structured this rebuttal testimony as follows: Section II discusses the unique circumstances of public radio, and why in light of those circumstances, the Board should set a rate for public radio that is lower than the rate for commercial Internet radio. Section III examines public radio-specific benchmarks that should be used in setting the royalty rate for public radio.

II. Public Radio and NPR

A. Background

The Corporation for Public Broadcasting is a non-profit organization established by Congress to facilitate the development of the public radio and television system. CPB receives federal funds on an annual basis which it uses to benefit both public radio and public television. NPR is a producer and distributor of non-commercial news, talk, and entertainment programming. NPR serves audiences in partnership with independently owned and operated non-commercial stations. CPB-qualified stations are non-commercial educational stations that meet the criteria established by CPB to receive funding. Many of these stations are members of NPR.¹ There are over 800 public radio stations that are represented in this proceeding.

Public radio has a mandate to serve listeners by providing educational and cultural programming not generally available on commercial stations or

¹ Stern Written Direct Testimony at 3.

that may not have mass market appeal. Public radio's goal is to reach audiences that might not otherwise be served by commercial radio broadcasters.² Public radio focuses on its mission of increasing public awareness of important news and information and cultural programming by distributing its contents in all types of media, including over-the-air broadcasts and more recently, Internet transmissions of terrestrial radio broadcasts. Over-the-air broadcasts are still the primary way that audiences access public radio content: the audience reached via content streamed over the Internet is dwarfed by public radio's over-the-air audience.³

B. Public Radio Is Distinct from Commercial Radio

Public radio is non-commercial and not-for-profit. Unlike commercial webcasters, whose programming decisions are based on the goal of obtaining advertising or subscription revenue, public radio derives its funding through a variety of public and private sources whose support is not necessarily related to reaching the maximum audience.⁴ The complex nature of funding sources includes federal, state, or local government, colleges, and voluntary donations. In addition, federal, state, and local public funding is determined by a political process that is largely out of the stations' control, and donations are raised through fund-drives. On the other hand, the revenues of commercial broadcasters are determined by their commercial success,

² Stern Oral Hearing Testimony, June 27, 2006, at 71:5-9; Stern Written Direct Testimony at 4.

³ Stern Oral Hearing Testimony, June 27, 2006, at 73:4-16.

specifically their success in the marketplace in attracting the largest possible audience to earn advertising revenue and/or subscription revenue.

SoundExchange witnesses attempt to equate revenues of commercial radio and webcasters with the total funding of non-commercial radio;⁵ these comparisons have no rational economic basis. The differences between commercial and public radio are fundamental and affect much of the operational structure of public radio as compared with commercial radio, from decisions to subsidize small stations in remote locations to continuing to fund costly programming because of its cultural or educational importance.⁶

C. The Use of Sound Recordings in Public Radio

Public performance rights for digital sound recordings are necessary for streaming programming that contains music. Public broadcasters do not have advertising or subscription revenues that can be used to cover the cost of music licensing fees; instead, they have limited budgets for different necessary resources, including program production and acquisition. These budgets are determined by the availability of financial resources. If music royalties increase, there is no mechanism that adjusts the budget upwards to

⁴ Stern Written Direct Testimony at 11.

⁵ See, for example, Griffin Oral Hearing Testimony, May 2, 2006, at 188:13-191:3; and Brynjolfsson Oral Hearing Testimony, May 18, 2006, at 28:12-17.

⁶ For example, Kenneth Stern noted in his testimony that a large number of NPR's approximately 280 member stations are very small "mom and pop" operations in places such as Alaska. See Stern Oral Hearing Testimony, June 27, 2006, at 107:1-5 and 115:5-12.

reflect this cost.⁷ Without an annual fee that is set in advance, public radio will not be able to include the cost of sound recording performance rights in its programming budgets, and public radio will face difficulty in continuing to use music as part of its Internet programming.⁸

III. The Appropriate Benchmark for Public Radio

A. SoundExchange Failed to Propose a Rate for Non-Commercial Entities

In this proceeding, SoundExchange has not presented evidence regarding reasonable rates for non-commercial entities. Neither Professor Erik Brynjolfsson nor Dr. Michael Pelcovits, SoundExchange's economic witnesses, did any analysis of public radio or non-commercial broadcasting; instead, both witnesses' analyses focused on profit-maximizing commercial webcasters.⁹ Indeed, both experts used models to arrive at recommended fee levels that explicitly depend on profit-maximizing behavior on the part of licensees. In the case of Dr. Pelcovits, his model is based on an assumption that the demand for sound recording performance rights is a derived demand that can be arrived at by subtracting the licensee's other costs from a market demand curve. Since public radio stations do not make their programming

⁷ Commercial broadcasters operate in markets in which the prices that they charge for advertising and/or subscriptions are determined by market forces. If there is an increase in sound recording performance fees that affects all commercial broadcasters, it is likely that advertising rates and/or subscription prices will adjust somewhat to reflect higher costs.

⁸ Stern Written Direct Testimony at 12.

⁹ Pelcovits Oral Hearing Testimony, May 16, 2006, at 221:6-222:12; and Brynjolfsson Oral Hearing Testimony, May 18, 2006, at 28:4-29:11.

decisions based on a profit-maximizing model, there is no basis to expect that their willingness to pay for sound recordings obeys this derived demand relationship.

Prof. Brynjolfsson derives the sound recording performance fee by assuming that the sound recording owners would be in a position to demand a portion of the surplus available to licensees when costs are subtracted from market revenues. Again, public radio broadcasters do not receive revenues directly from the sale of products, so the whole concept of the surplus does not apply to them.

Thus, conclusions about the appropriate competitive market royalty for sound recordings for public radio cannot be based on models derived from the assumed behavior of for-profit firms. Rather, they should be based, if possible, on evidence specific to public radio.

B. Factors to Consider in Setting Sound Recording Royalty Rate

In my direct testimony, I propose a fee for webcasters based on their agreements with the Performing Rights Organizations ("PROs") for Internet performances. This model is based on contracts negotiated with the same willing buyers (webcasters) for the same performances covered by this proceeding. It is not a "one size fits all" model that applies with equal validity to all streamers; it is the best available indicator for commercial webcasters regarding the competitive market valuation of their performance of sound recordings.

In setting the sound recording rate, there are several indicators that should be considered in setting an appropriate royalty rate and structure for non-commercial entities that stream digital sound recordings.

Musical Work Royalty Rate: An important benchmark for fee-setting for public radio is the musical work royalty agreed to by public radio and ASCAP, BMI, and SESAC. For reasons that I discuss in my written direct testimony for the webcasters, the musical work royalty rate is a good benchmark for the sound recording fee.¹⁰ Just as the musical work agreements capture the interplay of the marketplace forces between commercial webcasters and musical work performance copyright holders, the musical work agreements between public radio and musical work copyright holders provide the best evidence of reasonable rates and terms for public radio sound recording performances under the willing buyer/willing seller standard. The musical work agreements capture differences between commercial and non-commercial broadcasters for factors such as the relative value of music and other elements in programming, the types of entities being licensed, and different requirements regarding the structure of the license.

In the case of public radio, there are some slight differences between the scope of musical work performance licenses and the sound recording

¹⁰ Jaffe Written Direct Testimony at 19-26.

performance license at issue in this proceeding. As discussed below, these differences can be accounted for.

*Other Statutory Factors*¹¹: Given the statutory factors, the Board may also want to consider differences in promotional value. To the extent that airplay on public radio promotes the sale of sound recordings, given the rich context in which the music is played, such promotional value would point toward a further downward adjustment in the fee, consistent with the enumerated factors in the statute.¹² Public radio invests substantial amounts of money in music programming and in additional Internet-only features so listeners can learn more about the artists.¹³ These features clearly benefit artists and record labels whose witnesses testified about the promotional value provided through airplay on NPR. For example SoundExchange's witness, Jonatha Brooke, testified that there was benefit to her giving an interview to NPR and performing her music in its studio.¹⁴ SoundExchange's witness, Cathy Fink, also testified that the fact that NPR invests significant time and effort in exposing music to the public that would

¹¹ The statute instructs that the Board shall make its determination on economic, competitive, and programming information, including whether the service may substitute for or promote the sales of phonorecords. See 17 U.S.C. § 114 (f)(2)(B)(i) (2006).

¹² See further discussion in Stern Written Direct Testimony at 8-9. Stern noted that music-based programming on the Internet sites of public radio entities encourages the purchase of CDs by increasing listeners' understanding and appreciation of music, providing detailed information about the music streamed so that listeners can purchase the recording, and includes links on the web site to allow listeners to purchase the music.

¹³ Stern Written Direct Testimony at 8-10.

¹⁴ Brooke Oral Hearing Testimony, May 17, 2006, at 192:7-193:2.

not otherwise be played on commercial radio benefits artists like herself.¹⁵ Additionally, Fink testified that she would not link to NPR's web site or seek to have her work on NPR unless she benefited from doing so.¹⁶

C. Musical Work Performance Rights Benchmark

CPB/NPR have voluntarily negotiated contracts with ASCAP, BMI, and SESAC covering the digital performance of musical works for some portion of the time period of this proceeding.¹⁷ Appropriately adjusted, these musical work agreements provide evidence regarding a reasonable fee structure and royalty rate for sound recording performances on public radio.

These contracts form the basis of my determination that the rate proposed by public radio is reasonable.

Fee Structure: PRO agreements are structured as an annual fee with a pre-defined payment schedule. Such a structure reflects the reality that CPB (which pays the fees on behalf of the public radio stations) needs to be able to

¹⁵ Fink Oral Hearing Testimony, May 17, 2006, at 103:9-18.

¹⁶ Fink Oral Hearing Testimony, May 17, 2006, at 102:9-102:13.

¹⁷ See ASCAP-CPB/NPR/PBS Agreement, January 2005 (CRB-CPB002603 - CRB-CPB002612); BMI-Public Broadcasting Agreement, April 2005 (CRB-NPR007281 - CRB-NPR007305); and SESAC Public Broadcasting Blanket License Agreements, June 2002 (CRB-NPR007306 - CRB-NPR007317).

account for the royalties in advance for predictability, planning, and budgeting purposes.¹⁹ In addition, musical work copyright holders recognize that dealing individually with over 800 stations (some of which are very small) would be administratively burdensome and would create large transactions costs as compared to having the public radio license administered by CPB.

Royalty Rate: The agreements between public radio and the PROs can also provide information about the level of reasonable fees. As a starting point, I look at the fees that are paid by public radio to the PROs. Public radio has contracts with BMI and ASCAP specific to Internet streaming for a portion of the period for which this Board is trying to determine reasonable sound recording royalty fees. In total, CPB/NPR/PBS will pay \$

approximately \$ in 2006 and \$ in 2007 for the use of musical works on public broadcasting web sites, including Digital Millennium Copyright Act of 1998 -compliant streaming and the replaying of eligible archived materials, as well as other uses. '

¹⁸ [

¹⁹ Stern Oral Hearing Testimony, June 27, 2006, at 114:21-115:16.

One cannot, however, look directly to the dollar amount of musical work royalties to determine a reasonable sound recording royalty. There are two adjustments that must be made to musical work royalties to make them comparable to sound recording royalties. First, the musical work contracts cover a broader set of activities (public television and public radio) than is licensed in this proceeding, second, musical compositions in the public domain incur no copyright obligation for the musical work performance but do incur a copyright obligation for the sound recording performance. These differences can be adjusted for to yield a reasonable sound recording royalty amount.

First, I adjust the musical work performance fee downward because of the broader scope of the license. The musical work contracts cover both radio and television web sites. The licenses also cover the use of music on web sites (for example, the use of music on children's activities on www.pbskids.org).

In the context of this proceeding, I make the

²⁰ See Written Direct Testimony of Dr. Jane Murdoch on behalf of National Public Radio, In the Matter of Digital Performance Right in Sound Recordings and Ephemeral Recordings, No. 2000-9 CARP DTRA 1&2, April 11, 2001, at 6.

assumption that musical work fees for the Internet uses are equally split between radio and television.²¹

Second, I adjust the musical work performance fee upward because performances of compositions in the public domain would not be covered by the musical work license. Performances of music in the public domain generate no royalty obligation to the musical work copyright holder but do generate a royalty obligation to the associated sound recording copyright holder. Although I have no way of knowing precisely which performances are in the public domain, it is my understanding that some fraction of classical music compositions are in the public domain. To be conservative, I assume that approximately 40% of musical work compositions are in the public domain.²² This number is derived by assuming that 1) the music performances subject to the statutory license on public radio streaming appear only in music programming, and 2) *all* classical music is in the public domain.²³ Both assumptions are conservative. Based on these assumptions, approximately 40% of performances incur a sound recording obligation

²¹ Statutorily, 75% of the fees appropriated by Congress for the Corporation for Public Broadcasting must be used for public television and the other 25% must be used for public radio. See 47 U.S.C. § 396 (2006).

²² This calculation is based on weekly hours by program formats reported for stations that stream. (See Music Webcasting Report 2004, Station Webcasting Survey Results, September 2004, CRB-NPR000029-CRB-NPR000074, at 10) This figure is also consistent with the calculation of Dr. Murdoch in 2001. See Murdoch Written Direct Testimony, April 11, 2001, at 11.

²³ It is my understanding that "modern" classical music (copyrighted works composed after 1923) and older pieces that have been revised or "arranged" are subject to musical work performance royalties, so my assumption that all classical works are in the public domain is conservative.

without a similar musical work obligation. Thus, the musical work royalties, all else equal, would account for only 60% of the performances and would need to be adjusted upward. It is also possible for a performance to incur a musical work royalty obligation without a concurrent sound recording obligation. This happens when artists perform live on public radio. Such performances would require a downward adjustment of the musical work fees, but I have not made such an adjustment here, again making my calculation conservative.

Figure 1 summarizes the adjustments that are discussed above. After adjusting the musical work benchmark, I believe that NPR's proposal of an annual fee of \$80,000 per year, adjusted in subsequent years for inflation as measured by the Consumer Price Index, is reasonable.²⁴

²⁴ The reasonableness of this fee is also confirmed by the agreement between SoundExchange and CPB/NPR that was signed in November 2001 before the Copyright Arbitration Royalty Panel issued its ruling. This agreement covers the rights that are at issue in this proceeding for an early time period.

See

Stern Oral Hearing Testimony, June 27, 2006, at 145:2-11.



Adam B. Jaffe



Station Webcasting Survey Results

Privileged and Confidential

National Public Radio
Audience & Corporate Research
September 2004

EXHIBIT NPRJ 1

Online Webcasting Mix

Live Streaming of Audio Content

If stations engage in live streaming, they typically mirror the live stream of their broadcast without interruption. Eleven percent choose to stream less than the full broadcast day. More stations simulcast newscasts, news, public affairs, and talk than any other format; this format is followed by classical music and then jazz. Popular and other music comprise 21% of live streaming hours.

Hours per week of live streaming	Count	Percent of Stations Responding
Less than 24hr x 7 days	17	11%
24 x 7 stream	126	81%
Two 24 x 7 streams (stations with multiple flagships)	13	8%

Live Stream Format	No. of Stns That Webcast	% of Total Weekly Hours
Newscasts/news/public affairs/talk	150	34%
Drama/spoken word/story telling	10	<1%
Jazz music	125	14%
Classical music	101	26%
Popular/rock music	68	11%
Other music	135	10%
Other non-music programming	129	5%

Live Streaming of Audio Content	No. of Stns That Webcast	Range Hrs/Week	Average Hours/Week	Total Hours/Week
Newscasts/news/public affairs/talk	150	0.5 to 222	69	8,961
Drama/spoken word/story telling	10	1.5 to 39	8	71
Jazz music	125	0.5 to 164	35	3,783
Classical music	101	1 to 179	72	6,730
Popular/rock music	68	0.2 to 142	33	2,797
Other music	135	0.7 to 168	22	2,586
Other non-music programming	129	0.5 to 162	13	1,257

Before the
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TESTIMONY OF DR. E. JANE MURDOCH AND DR. JOHN WOODWARD
ON BEHALF OF PUBLIC RADIO

EXHIBIT NPRJ 2

of the performance right in the sound recording does not exceed the value of the performance right in the musical composition.¹²

17. Based on the conclusions drawn in the Digital Audio Services CARP, a conservative application of the 1998 Public Broadcasting CARP would be to use the combined ASCAP and BMI fees, with an adjustment for the value of the SESAC repertory, as an upper limit on reasonable hypothetical fees to be paid to the RIAA for broadcast performances of the music in those repertories.¹³
18. Publicly available information suggests that _____ is a reasonable estimate of SESAC's share of payments to ASCAP, BMI, and SESAC. In particular, in 1998, the Librarian of Congress noted that the "CRT determined that of the _____ royalty share awarded to the music claimants' group in the 1978 cable [royalty] distribution proceeding, ASCAP would receive _____, BMI, _____ and SESAC, _____ of royalties."¹⁴ Therefore, the hypothetical fee for public broadcasts of sound recordings of compositions in the ASCAP, BMI, and SESAC repertories is the fee for public broadcasts of compositions in the ASCAP and BMI repertories adjusted upward by _____ percent to _____ per year.¹⁵

Allocating the hypothetical fee for public broadcasts of sound recordings in the ASCAP, BMI, and SESAC repertories between public radio and public television

19. The licensees for which the benchmark fees were determined in the 1998 Public Broadcasting CARP proceeding included public television broadcasters in addition to the public radio broadcasters. The current CARP proceeding will determine fees for public radio entities only. Therefore, we must apportion the hypothetical fee for public broadcasts of sound recordings in the ASCAP, BMI, and SESAC repertories between public radio and public television. Any method of dividing that total fee should account for differences in the intensity of music use between public radio and public television, as well as differences in the scale of public radio and public

¹² Final Order, Digital Audio Services CARP, p. 25410. The Librarian of Congress fully endorsed and adopted the Register's fee recommendation (Final Order, Digital Audio Services CARP, p. 25413). The discussion in the Final Order does not indicate that this conclusion is due to any unique characteristics of the digital audio subscription services. Accordingly, we have assumed that the Panel in the Digital Audio Services CARP and the Librarian of Congress would agree that this conclusion extends to public radio broadcasts. We discuss, below, the reasons why we reject the sound recording performance license fee rate for the digital subscription services as a reasonable benchmark for public radio. However, we see no reason that precludes extending to other services the panel's finding that, for a given licensee, the value of a performance license for sound recording should be no more than the value of a performance license for musical works.

¹³ SESAC was not a participant in the 1998 Public Broadcasting CARP. The parties negotiated the SESAC license.

¹⁴ Final Order, Digital Audio Services CARP, note 23.

Expressed as a percentage of payments to ASCAP and BMI, SESAC's share is still roughly _____ percent. Three _____ divided by _____ percent is _____. The product of _____ and _____ is _____.

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No. 2000-9
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TESTIMONY OF DR. E. JANE MURDOCH AND DR. JOHN WOODWARD
ON BEHALF OF PUBLIC RADIO

programming.³⁰ As we discuss below, this is a very conservative assumption. We calculate a hypothetical license fee for sound recording performances of classical music programming based on a comparison of the music use and scale of activity of classical music programming with nonclassical music programming.

32. We do not have any data indicating whether classical music programs use more or less music than nonclassical music programs. In our calculations, we assume that classical music programming has the same hourly sound recording music usage as the currently-licensed nonclassical music programming. As a result, the only factor that would distinguish the performance rights payments for classical music programs from those for nonclassical music programs is the scale of classical music programming relative to nonclassical music programming.

33. Our preferred measure of scale is public radio programming expenses by program format, but these data are not available. Instead, we have assumed the hourly cost of programming in the classical music format is the same as the hourly cost of programming in nonclassical music formats. Under that assumption, total programming expenses for the classical music format will be in the same proportion to total programming expenses for nonclassical programming as the two formats' share of programming hours.

34. The classical music programming format comprises percent of the programming day on average across all public radio stations, while nonclassical music programming comprises percent of the programming day.³¹ Thus, we have estimated that classical music format programming expenses are percent those of nonclassical music formats.³² As a result, the hypothetical payments for the sound recording performance rights in classical music programs would be percent of that paid for the sound recording performance rights in nonclassical music programs, or \$. While this calculation relies on assumptions of equal hourly music use and equal hourly programming expenses between classical music and nonclassical music programming, we are unaware of evidence to suggest that these assumptions are unreasonable.³⁴ If additional evidence were to come to light,

³⁰ We understand that new arrangements of classical music may be copyrighted and give rise to royalty distributions through ASCAP, BMI, and SESAC. We also understand that some music in classical music programming is not yet in the public domain.

³¹ This is reflected in Table 4, which is discussed below, in Section V.

³² Twenty-six percent is percent of percent.

³³ percent of s

³⁴ In fact, the NPR pricing schedule indicates that classical music programming that stations purchase from NPR is less costly on an hourly basis than NPR's nonclassical music programming. Thus, insofar as programming acquired from NPR is concerned, our assumption is conservative. (See National Public Radio, "Analysis of Fiscal Year 2001 NPR Prices for Classical, Jazz and Celtic Music Programming.")